

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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COLLETTE BRIGHTMAN,  
Plaintiff,

v.

J.C. PENNEY, INC.,  
Defendant.

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) DOCKET NO: 05 CV 11718 RGS  
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**ANSWER, AFFIRMATIVE DEFENSES AND CLAIM FOR JURY TRIAL  
OF THE DEFENDANT, J.C. PENNEY, INC.**

Now comes the defendant, J.C. Penney, Inc. (so-called) ("J.C. Penney"), properly named as J.C. Penney Corporation, Inc., and hereby responds to the plaintiff's Complaint as follows:

**FIRST DEFENSE**

The defendant, J.C. Penney, states that the plaintiff's Complaint fails to state a cause of action upon which relief can be granted.

**SECOND DEFENSE**

The defendant, J.C. Penney, responds to the plaintiff's Complaint paragraph by paragraph as follows:

1. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.
2. The defendant denies the allegations contained in this paragraph, and states that J.C. Penney Corporation, Inc., is a Delaware corporation with a principal place of business located at 6501 Legacy Drive, Plano, Texas.

3. The defendant admits only that .C. Penney Corporation, Inc. operated a retail store located at such location on such date. The remaining allegations set forth a legal conclusion to which no responsive pleading is required.

4. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and calls upon the plaintiff to prove same.

5. Denied.

6. Denied.

### **THIRD DEFENSE**

The defendant says that the negligence of the plaintiff was greater than the alleged negligence of the defendant and that such negligence of the plaintiff contributed to her alleged injury and, therefore, the plaintiff is barred from recovery under M.G.L., c. 231, § 85.

### **FOURTH DEFENSE**

The defendant says that the plaintiff was guilty of comparative negligence and that the damages, if any, recovered by the plaintiff from the defendant should be reduced in proportion to the said negligence of the plaintiff in accordance with M.G.L., c. 231, § 85.

### **FIFTH DEFENSE**

The defendant says that the plaintiff, by her conduct and actions and/or by the conduct and actions of her agents, servants and other representatives, cannot recover in this action.

### **SIXTH DEFENSE**

The defendant says that the process and service of process was deficient.

### **SEVENTH DEFENSE**

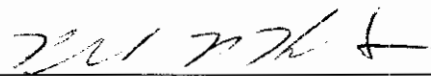
The defendant says that the plaintiff has mis-named the defendant.

**WHEREFORE**, the defendant demands that the plaintiff's Complaint be dismissed with prejudice and judgment entered in the favor of the defendant with costs, attorney's fees, and disbursements of this action.

**JURY CLAIM**

The defendant, J.C. Penney Corporation, Inc., improperly named as J.C. Penney, Inc., demands a trial by jury on all issues.

Respectfully Submitted,  
The Defendant,  
J.C. Penney Corporation, Inc.,  
improperly named as J.C. Penney, Inc.,  
By its attorneys,



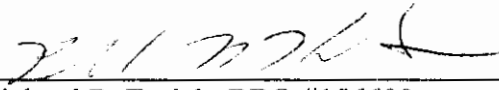
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250 Summer Street  
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(617) 439-7500

**CERTIFICATE OF SERVICE**

I, Philip M. Hirshberg, do hereby certify that I have, this date, served the foregoing document, by first class mail, postage prepaid, to Stephen J. Amaral, Esquire, Joseph P. Harrington, P.C., 190 William Street, New Bedford, MA 02740.

Dated: August 19, 2005

  
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